Jo Ann Goddard Riley
Director
Federal Regulatory Relations

1275 Pennsylvania Avenue, N.W., Suite 400
Washington, D.C. 20004
(202) 383-6429

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 15, 1992

Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Ms Searcy:

Re: *CC Docket No. 92-24 - Local Exchange Carrier Line Information Database*

On behalf of Pacific Bell, please find enclosed an original and six copies of its "*Rebuttal To Oppositions To Direct Case*" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

J.A. Goddard Riley /WFA

Enclosures

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JUN 15 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

In the Matter of	)	
	)	
Local Exchange Carrier Line Information Database	)	CC Docket No. 92-24
	)	

REBUTTAL OF PACIFIC BELL TO OPPOSITIONS TO DIRECT CASE

Pursuant to the Order Designating Issues for Investigation released by the Commission on March 20, 1992 ("Designating Order"),[1] Pacific Bell submits this Rebuttal to comments on and oppositions to its Direct Case in the above-named proceeding. Oppositions or comments were filed by the Competitive Telecommunications Association ("CompTel"), International Telecharge, Inc. ("ITI"), Allnet Communication Services, Inc. ("Allnet"), Sprint Communications Company Limited Partnership ("Sprint"), and MCI Telecommunications Corp. ("MCI").

I. There Is No Unreasonable Discrimination Between LIDB Service and the Mutual Card Honoring Agreements.

ITI and CompTel complain that under the LECs' mutual card honoring agreements ("MHAs") with AT&T "the LECs rather than AT&T bear the risk that the charges for calls charged to LEC

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1 Local Exchange Carrier Line Information Database, CC Docket No. 92-24, Order Designating Issues for Investigation, DA 92-347, released March 20, 1992.

calling cards and carried on AT&T's network will be uncollectible" (CompTel, p. 4) or alternatively "the LECs are liable for all fraud occurring on AT&T's network for interLATA usage of LEC calling cards" (ITI, p. 4.). Both ITI and CompTel argue that this "inconsistency" or "disparity of treatment" between the MHAs and LIDB appears to be discriminatory under Section 202(a) of the Act. ITI, p. 7; CompTel, p. 4. CompTel adds that the Commission should require the LECs to demonstrate that "none of the costs attributable to their indemnifications of AT&T through the MHAs have been included in the cost basis for those LIDB rates." CompTel, p. 6. ITI adds that "it appears that the MHAs offer AT&T an unlawful, off-tariff deal." ITI, p. 7.

First, notwithstanding the statements of AT&T or the Whidbey Telephone Company in the OCP Discounts Investigation (see ITI, pp. 3, 8), under Pacific's MHA with AT&T Pacific is not liable for all fraud occurring on AT&T's network for interLATA usage of LEC calling cards, nor does Pacific generally bear the risk of uncollectible calls charged to its card and carried on AT&T's network. Pacific does not know what provisions other LECs agreed to with AT&T, but ITI's and CompTel's characterizations of the MHA between AT&T and Pacific are untrue and thus do not show any discrimination.

Second, as ITI and CompTel themselves acknowledge, the Commission already has considered whether LECs and IXCs can agree "off-tariff" to honor each other's cards, and indicated that they can if the LEC does the same for other IXCs.[2] Moreover, "the terms of those agreements may reasonably vary depending upon the requirements of the LEC and particular IXC."[3] As stated above, Pacific is not generally liable under its MHA for fraudulent calls made with its card over AT&T's network. But it may be reasonable and non-discriminatory vis-a-vis LIDB service (because LIDB does not require mutual card acceptance) for other LECs to assume such liability if the IXC assumes an offsetting risk associated with the use of the IXC's card.

Finally, CompTel's concern about whether LIDB charges include the cost of indemnifying AT&T are groundless in Pacific's case. Pacific's unit costs for LIDB query and transport service did not include any expense for indemnifying or accepting any risk of fraud from AT&T.

CompTel and ITI make no valid criticisms of LIDB rates, terms or conditions. It is the MHAs they criticize. Their real purpose can only be to be to nullify any competitive advantage AT&T has over them by having its own universally accepted calling card. That is not an issue in this proceeding. In accordance with the Commission's order in Docket 91-115, Pacific stands (and has always stood) ready to enter into mutual card honoring

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2 Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, CC Docket No. 91-115, FCC 92-168 (released May 8, 1992), para. 36.

3 Id., para. 37.

agreements with any IXC on a non-discriminatory basis. CompTel's and ITI's concerns should be addressed in Docket 92-77, not here.

II. Pacific's LIDB Costs Were Properly Calculated.

MCI, Sprint, and Allnet object to the cost support for Pacific's LIDB tariff. None of their objections have merit.

MCI (pp. 21-22) and Sprint (p. 6) object to the overhead loading factors that Pacific calculated. They point out that some carriers appear to have applied an overhead factor based on average local transport costs, while others, including Pacific, calculated overheads using total switched access costs. Id. They do not, however, say what is wrong with different BOCs using different overhead loadings. There is nothing inherently wrong with it: to provide the flexibility needed to achieve efficient pricing, the Commission has expressly declined to mandate uniform overhead loading.[4] The Commission expects BOCs to justify the loading methodology they select,[5] and Pacific already has done so. Pacific's method ensures that the overhead loading factor for LIDB service is approximately the same as the factors used in the rates for services that are related to LIDB (i.e., switching)

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4 Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket No. 89-79, Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Report and Order & Order on Further Reconsideration & Supplemental Notice of Proposed Rulemaking, FCC 91-186 (released July 11, 1991), para. 44.

5 Id.

and that have also been examined by the Commission at various times and allowed to take effect.

Contrary to Sprint's implication (p. 6-7), the company study underlying the incremental switched access cost that Pacific used to calculate an overhead loading factor is not specifically required by the Commission's rules to be filed, nor should it be. The study is highly proprietary because it displays the incremental costs of Pacific's entire line of switched access products, thus falling within the classic definition of competitively sensitive business information.[6] Because they relate to Pacific's entire switched access business, not just LIDB, the data and assumptions underlying these costs are voluminous and mostly irrelevant. Their disclosure is not warranted here.

MCI makes a typical misstatement when it says that LIDB rates should not exceed fully distributed cost (FDC). MCI, pp. 25-26. FDC is not the test of whether a new service is reasonably priced. The Commission's "flexible, cost-based approach" requires (unless competitive necessity is shown) that new services be based on direct costs plus "appropriate" overheads, and that they pass a net revenue test.[7] That is all.

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6 See National Parks and Conservation Ass'n. v. Morton, 498 F.2d 765 (D.C. Cir. 1974); National Parks and Conservation Association v. Kleppe, 547 F.2d 673 (D.C. Cir. 1976); and Sterling Drug Inc. v. F.T.C., 450 F.2d 698 (D.C. Cir. 1971).

7 Id., paras. 39, 43-44.

In the Designating Order, the Bureau states that "[a]ny carrier who relied on CCSCIS to develop its rates must explain why use of such a model is appropriate for common channel signalling services."[8] Allnet (pp. 3-5) and MCI (pp. 23-24) complain, respectively, that Pacific "argues that the CCSCIS [program] is appropriate simply because, in effect, it computes an output that Pacific Bell has determined is correct" and "the Commission must require the LECs to make their CCSCIS costing model available for public scrutiny."

Allnet and MCI would have Pacific go beyond what the Bureau actually requested. The Bureau did not ask carriers "the actual inputs that were provided to model [sic]," or "the costing methodology used, the study period, the vendor discounts, the cost of money, the date of equipment prices to be used and whether material or EF&I equipment prices should be used," or "other variables" or "output reports," as Allnet implies (pp. 4-5). Nor is there any reason LECs should "respond to a variety of other costing issues currently part of the ONA investigation," such as cost of money or overhead loadings, as MCI argues (p. 24).

CCSCIS, as the Bureau is already aware, uses the same approach as the SCIS program. It is competitively sensitive for the same reasons as SCIS and contrary to what MCI says it should

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8 Designating Order, p. 2.

be protected from public disclosure.[9] At the same time its similarities to SCIS are no reason to turn this investigation or every investigation into rates developed using a similar program into the ONA investigation. The Docket 92-91 process of redacting the SCIS program, arranging for disclosure to interested parties, and arranging for an independent third party review has been expensive and cumbersome for Pacific and other carriers. There is no reason to follow that process here. The Bureau merely is building on that process by asking why use of a SCIS-like model is appropriate for common channel signalling services.

III. LIDB Terms and Conditions Are Reasonable.

MCI complains that LIDB tariffs should contain more specific terms and conditions (pp. 5-10; see also Allnet, pp. 2-3), that LECs should assume responsibility for the accuracy of the database (pp. 10-12), and that LECs must implement fraud controls and assume responsibility for incorrectly validated calling cards, like commercial credit card issuers (pp. 12-18). MCI also says that LEC tariffs must explain any differences between the 56 kbps CCS interconnection link and a 56 kbps special access line.

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9 See Commission Requirements for Cost Support Material To Be Filed with Open Network Architecture Access Tariffs, Memorandum Opinion and Order, DA 92-129 (released January 31, 1992), para. 64.

MCI does not refute the point that access tariffs have never contained the type of microscopic detail it seeks to have included in the LIDB tariffs. As Pacific indicated in its Direct Case, a tariff that includes what MCI requests (MCI, pp. 6-7) would need to be constantly revised, each revision a completely unnecessary exercise for Pacific, the Commission, and other interested parties. MCI never backs up with detail its assertion that "the LECs have so far performed...poorly in their database management role." MCI, p. 9.

Allnet (pp. 2-3) and MCI (pp. 10-11) are equally incorrect to say that LIDB is a monopoly service. In fact, MCI and other IXCs have their own validation databases, to say nothing of validation services offered to IXCs by commercial credit card issuers. To say, as Allnet does, that "there are no real alternative [sic] to these monopoly services. The LEC's deployment of the LIDB system, including the information contained in the database, is provided solely through the LEC's status as the local exchange monopoly provider" (Allnet, p. 2) is no more than a truism. It is like pointing out that MCI has a monopoly on the validation of its cards. This does not take away from the Commission's assertion of Title II jurisdiction over LEC validation services, but to suggest that LIDB tariffs should be subject to a higher standard because LECs have a "monopoly" on the validation of their cards makes little sense.

MCI's contention that "LECs should also have liability obligations for all costs borne by the IXC in accessing the LIDB database" (MCI, p. 12) illustrates some of the problems of MCI's position. It is unclear what "costs borne by the IXC" means--whether it would include only direct, or also indirect costs. In any case it is likely that the process would be time-consuming and adversarial, with IXCs presenting claims related to the "costs" of allegedly faulty query responses and carriers negotiating their liability and processing any refunds manually. The process would be contentious, because Pacific cannot measure the number of particular types of query responses, only system downtime. Pacific is however installing a fraud prevention system that would do what MCI requests the LECs to do (p. 13) and more. This should allay MCI's concerns.

MCI makes clear its wish that LIDB would offer validation comparable to commercial credit cards, with the LEC guaranteeing payment on each account and absorbing the cost of any fraud or unbillable amounts. MCI, pp. 15-17. This simply demonstrates that MCI would like LIDB to be an upmarket service with a downmarket price. LIDB validation will in almost all cases be considerably cheaper than the acceptance fees charged by commercial credit cards to merchants, which have been reported to range from 1.25% to 3.5% of the amount of each transaction for VISA and MasterCard and 2.5% to 5% for American Express.[10] Based on an average commercial credit card transaction amount of $65,[11] typical commercial credit card validation fees, which

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10 "American Express's Hard Times," The New York Times, April 22, 1991, p. D1.

11 "VISA Sets 4% Increase on Key Credit Card Fee", The American Banker, June 5, 1992, p. 1.

unlike LIDB include the assumption of fraud risk by the card issuer, appear to exceed LIDB validation fees many times over.

Finally, MCI is incorrect to state that Pacific used its tariffed 56 kbps DDS rate as the CCS interconnection rate. There are, however, no technical differences between Pacific's CCS interconnection link and Pacific's 56 kbps special access line. Hence there is no need to "state in [Pacific's] tariffs the similarities and differences between these two ... services" (MCI, p. 19).

IV. Conclusion.

For all of the foregoing reasons, Pacific's tariffs for LIDB Service and SS7 Interconnection should be permitted to remain in effect as filed.

Respectfully submitted,

PACIFIC BELL

John W Bogy

JAMES P. TUTHILL
JOHN W. BOGY

140 New Montgomery St., Rm. 1530-A
San Francisco, California 94105
(415) 542-7634

STANLEY J. MOORE

1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 383-6472

Its Attorneys

Date: June 15, 1992

CERTIFICATE OF SERVICE

I, Elizabeth C. Okie, hereby certify that copies of the foregoing "**Rebuttal of Pacific Bell to Oppositions to Direct Case**" were served by hand or by United States first-class mail, postage prepaid, upon the parties listed on the attached service list on this 15th day of June, 1992.

Elizabeth C. Okie
140 New Montgomery Street
San Francisco, CA 94105

SERVICE LIST - CC DOCKET 92-24

Donna R. Searcy, Secretary*
Federal Communications
Commission
1919 M Street, N. W.
Room 222
Washington, D. C. 20554

Cheryl A. Tritt, Chief*
Common Carrier Bureau
Federal Communications
Commission
1919 M Street, N. W., Room 500
Washington, D. C. 20554

Gregory J. Vogt, Chief*
Tariff Division
Common Carrier Bureau
Federal Communications
Commission
1919 M Street, N. W., Room 518
Washington, D. C. 20554

Colleen Boothby, Deputy Chief*
Tariff Division
Federal Communications
Commission
1919 M Street, N. W.
Room 518
Washington, D. C. 20554

Judy Nitsche, Chief*
Tariff Review Branch
Federal Communications
Commission
1919 M Street, N. W., Room 518
Washington, D. C. 20554

Ann Stevens*
Federal Communications
Commission
1919 M Street, N. W.
Room 518
Washington, D. C. 20554

Mark Uretsky*
Federal Communications
Commission
1919 M Street, N. W., Room 518
Washington, D. C. 20554

Dan Grosh*
Federal Communications
Commission
1919 M Street, N. W., Room 518
Washington, D. C. 20554

Downtown Copy Center*
1919 M Street, N. W.
Room 246
Washington, D. C. 20036

H. Richard Juhnke
Marybeth M. Banks
SPRINT COMMUNICATIONS COMPANY
1850 M St., N. W., 11th Floor
Washington, D. C. 20036

* Hand Delivered

Gregory Casey
Senior Vice President
Regulatory Affairs
Jane A. Fisher
Director, Federal Regulatory
(Acting)
INTERNATIONAL TELECHARGE, INC.
6707 Democracy Blvd.
Bethesda, MD 20817

Roy L. Morris
Deputy General Counsel
ALLNET COMMUNICATIONS
SERVICES, INC.
1990 M Street, N. W.
Suite 500
Washington, D. C. 20036

Richard E. Wiley
Robert J. Butler
WILEY, REIN & FIELDING
COMPETITIVE TELECOM-
MUNICATIONS ASSOCIATION
1776 K Street, N. W.
Washington, D. C. 20006

Andrew L. Regitsky
Senior Manager,
Regulatory Analysis
MCI TELECOMMUNICATIONS
CORPORATION
1801 Pennsylvania Ave., N. W.
Washington, D. C. 20006

Genevieve Morelli
Vice President and
General Counsel
Heather B. Gold
Vice President of
Industry Affairs
Competetive Telecommunications
Association
1140 Connecticut Ave., N. W.
Suite 220
Washinton, D. C. 20036